



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

AUG 12 2016

CERTIFIED MAIL 7009 1680 0000 7647 3170
RETURN RECEIPT REQUESTED

REPLY TO THE ATTENTION OF

Mr. Adam C. O'Connell
Environmental Coordinator
Archer Daniels Midland West Plant
3883 Faries Parkway
Post Office Box 1470
Decatur, Illinois 62525

Re: Notice of Violation
Compliance Evaluation Inspection
ILD984785659

Dear Mr. O'Connell:

On March 7th and 8th, 2016 representatives of the U.S. Environmental Protection Agency and the Illinois Environmental Protection Agency) inspected the Archer Daniels Midland West Plant (ADM West) facility located in Decatur, Illinois. As a large quantity generator of hazardous waste, ADM West is subject to the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.* (RCRA). The purpose of the inspection was to evaluate ADM West's compliance with certain provisions of RCRA and its implementing regulations related to the generation, treatment and storage of hazardous waste. A copy of the inspection report is enclosed for your reference.

Based on information provided by ADM West, EPA's review of records pertaining to ADM West, and the inspector's observations, EPA has determined that ADM West has unlawfully stored hazardous waste without a permit or interim status as a result of ADM West's failure to comply with certain conditions for a permit exemption under Ill. Admin. Code tit. 35 § 722.134(a)-(c) [40 C.F.R. § 262.34(a)-(c)]. EPA has identified the permit exemption conditions with which ADM West was out of compliance at the time of the inspection in paragraphs 1 – 4, below.

Many of the conditions for a RCRA permit exemption are also independent requirements that apply to permitted and interim status hazardous waste management facilities that treat, store, or dispose of hazardous waste (TSD requirements). When a hazardous waste generator loses its permit exemption due to a failure to comply with an exemption condition incorporated from Ill. Admin. Code tit. 35 Part 725, the generator: (a) becomes an operator of a hazardous waste storage facility; and (b) simultaneously violates the corresponding TSD requirement. The exemption conditions identified in paragraphs 2 – 4 are also independent TSD requirements incorporated from Ill. Admin. Code tit. 35 Part 725. Accordingly, each failure of ADM West to

comply with these conditions is also a violation of the corresponding requirement in Ill. Admin. Code tit. 35 Part 724 [40 C.F.R. Part 264].

Finally, EPA has determined that ADM West violated RCRA requirements related to hazardous waste determinations and used oil, as described in paragraphs 5 – 7, below; and was not properly storing universal waste, as described in paragraphs 8 – 10, below.

STORAGE OF HAZARDOUS WASTE WITHOUT A PERMIT OR INTERIM STATUS AND VIOLATIONS OF TSD REQUIREMENTS

At the time of the inspection, ADM West was out of compliance with the following large quantity generator permit exemption conditions:

1. Hazardous Waste Satellite Accumulation: Under Ill. Admin. Code tit. 35 § 722.134(c)(1)(B) [40 C.F.R. § 262.34(c)(1)(ii)], a generator may accumulate as much as 55 gallons of hazardous waste in containers at or near any point of generation where the wastes initially accumulate which is under the control of the operator of the process generating the waste, without permit or interim status provided he marks his containers either with the words “Hazardous Waste” or other words that identify the contents of the containers.

At the time of the inspection, ADM West stored a satellite container of hazardous waste at its hazardous waste satellite accumulation area for the extraction lab that was not marked with the words, “Hazardous Waste” or other words that identified the contents of the container. See page 10 and Picture 12 in the attached inspection report.

At the time of the inspection, ADM West stored four white buckets acting as satellite containers of hazardous waste within a counter in its Refinery Extraction Lab that were not marked with the words, “Hazardous Waste” or other words that identified the contents of the container. See page 13 and Picture 16 in the attached inspection report.

2. Maintenance and Operation of a Facility: Under Ill. Admin. Code tit. 35 § 722.134(a)(4) [40 C.F.R. § 262.34(a)(4)], referring to Ill. Admin. Code tit. 35 § 725.131 [40 C.F.R. § 265.31], a generator may accumulate hazardous waste on site in containers for 90 days or less, without permit or interim status, provided he maintains operates the facility to minimize the possibility of a fire, explosion or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil or surface water which could threaten human health or the environment.

At the time of the inspection, ADM West had hazardous waste on the floor in its Refinery Extraction Lab at the scale used to weigh containers of hazardous waste. See page 14 and Picture 18 in the attached inspection report.

3. Hazardous Waste Training Program: A large quantity generator of hazardous waste must have a program of classroom instruction or on-the-job training that teaches facility personnel to perform their duties in a way that ensures the facility’s compliance with requirements of RCRA. This program must be directed by a person trained in hazardous waste management

procedures, and must include instruction that teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed. See Ill. Admin. Code tit. 35 §§ 722.134(a)(4) and 725.116(a) [40 C.F.R. §§ 262.34(a)(4) and 265.16(a)]. Facility personnel must successfully complete this training program within six months after the date of their employment or assignment to a facility or to a new position at a facility, and must take part in an annual review of this initial training thereafter. See Ill. Admin. Code tit. 35 §§ 722.134(a)(4) and 725.116(b) and (c) [40 C.F.R. §§ 262.34(a)(4) and 265.16(b) and (c)].

With respect to this training program, a large quantity generator must maintain the following documents and records at its facility:

- a. The job title for each position at the facility related to hazardous waste management and the name of the employee filling each job;
- b. A written job description for each position at the facility related to hazardous waste management;
- c. A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position at the facility related to hazardous waste management; and
- d. Records that document that the training or job experience described above has been given to and completed by facility personnel. See Ill. Admin. Code tit. 35 §§ 722.134(a)(4) and 725.116(d) [40 C.F.R. §§ 262.34(a)(4) and 265.16(d)].

At the time of the inspection, ADM West did not have and was unable to provide in response to a request a written description for the Superintendent or Lab Superintendent job titles related to hazardous waste management at the facility.

At the time of the inspection, ADM West did not have and was unable to provide in response to a request a records documenting the training for Pete Brinkoetter for the year 2015; Chelsea Mathews and Brad Birkholz for the year 2014; and Jeff Neisslis, who signed manifest # 000811439 in 2013. In addition, dates of hire or position assignment were not available.

4. Contingency Plan: Under Ill. Admin. Code tit. 35 § 722.134(a)(4) [40 C.F.R. § 262.34(a)(4)], referring to Ill. Admin. Code tit. 35 § 725.152(d) and (e) [40 C.F.R. § 265.52 (d) and (e)], a generator may accumulate hazardous waste on site in containers for 90 days or less, without permit or interim status, provided he establishes a contingency plan that lists the name, address, and phone numbers (home and office) of all persons qualified to act as emergency coordinator, and includes a list of all emergency equipment at the facility including the location and a physical description of each item on the list and a brief outline of its capabilities.

At the time of the inspection, ADM West did not include the address of its emergency coordinator(s) in its Contingency Plan, and the equipment list was not up-to-date.

By failing to comply with the conditions for a permit exemption, above, ADM West became an operator of a hazardous waste storage facility, and was required to obtain an Illinois hazardous waste storage permit. ADM West failed to apply for such a permit. ADM West's failure to apply for and obtain a hazardous waste storage permit violated the requirements of Ill. Admin. Code tit. 35 §§ 703.121(a) and (b); 703.180(c); and 705.121(a) [40 C.F.R. §§ 270.1(c), and 270.10(a) and (d)]. Any failure to comply with a permit exemption condition incorporated from Ill. Admin. Code tit. 35 Part 725 is also an independent violation of the corresponding TSD requirement.

OTHER VIOLATIONS

ADM West violated the following generator requirements:

5. Hazardous Waste Determination: Under Ill. Admin. Code tit. 35 § 722.111 [40 C.F.R. § 262.11], a generator must determine whether its waste is a hazardous waste.

At the time of the inspection, ADM West had not made a determination whether the waste stored in its Used Oil Storage Area was a hazardous waste as there was no label or markings on the container identifying the contents of the container. See page 9 and Picture 10 of the attached inspection report.

6. Used Oil Container Marking / Label: Under Ill. Admin. Code tit. 35 § 739.122(c)(1) [40 C.F.R. § 279.22(c)(1)], containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil."

At the time of the inspection, at least three containers of used oil, located in ADM West's Used Oil Storage Area, were not labeled with the words, "Used Oil." See page 9 and Picture 9 of the inspection report.

7. Used Oil Clean Up: Under Ill. Admin. Code tit. 35 § 739.122(d)(3) [40 C.F.R. § 279.22(d)(3)], upon detection of a release of used oil to the environment, a generator must properly clean up and manage the released used oil and other materials.

At the time of the inspection, there was an oil sheen on the floor of the Used Oil Storage Area. See page 10 and Picture 11 of the attached inspection report.

Universal Waste

8. Universal Waste Closed Container: Under Ill. Admin. Code tit. 35 § 733.133(d)(1), a small quantity handler of universal waste lamps must contain all lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

ADM West is a small quantity handler of universal waste because it accumulates less than 5,000 kilograms of universal waste at any time.

At the time of the inspection, one container of ADM West's universal waste lamps was not closed. See page 5 and Picture 2 of the attached inspection report.

9. Universal Waste No Longer Than One Year Storage: Under Ill. Admin. Code tit. 35 § 733.115(a), a small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated or received from another handler, unless the requirements of subsection (b) of this Section are met.

ADM West is a small quantity handler of universal waste because it accumulates less than 5,000 kilograms of universal waste at any time.

At the time of the inspection, one container of ADM West's crushed universal waste lamps was dated, "12-24-14", indicating that crushed universal waste-lamps had been stored at the facility for over one year. See page 7 and Picture 5 of the attached inspection report.

10. Universal Waste Accumulation Start Date: Under Ill. Admin. Code tit. 35 § 733.115(c), a small quantity handler of universal waste that accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration in any of the following ways:

- a. Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;
- b. Marking or labeling each individual item of universal waste (e.g., each battery or thermostat) with the date it became a waste or was received;
- c. Maintaining an on-site inventory system that identifies the date each universal waste became a waste or was received;
- d. Maintaining an on-site inventory system that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;

e. Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or

f. Any other method that clearly demonstrates the length of time that the universal waste has been accumulated from the date it became a waste or was received.

ADM West is a small quantity handler of universal waste because it accumulates less than 5,000 kilograms of universal waste at any time.

At the time of the inspection, universal waste – batteries were not marked with an accumulation start date and, in response to a request, facility personnel were not able to provide records to determine the accumulation start dates. See page 6 and Picture 3 of the attached inspection report.

Concerns

EPA has three concerns:

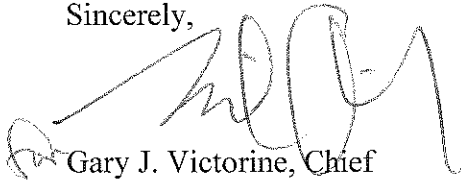
- ADM West used a universal waste label on a container marked with the words, “PCP Capacitors.” PCB capacitors are not universal waste. See page 6 and Picture 4.
- ADM West is transferring hazardous waste from satellite containers its lab to satellite containers in the satellite container storage area. Since the satellite container storage area is not at or near the point of generation of the lab waste, those containers may not be considered satellite containers.
- Within the de-oiled plant, buckets are in place to capture leaks, but the buckets were not labeled with their respective potential contents. The buckets were empty at the time of the inspection.

At this time, EPA is not requiring ADM West to apply for an Illinois hazardous waste storage permit so long as it immediately establishes compliance with the conditions for a permit exemption outlined in paragraphs 1 – 4, above.

According to Section 3008(a) of RCRA, EPA may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified time period, or both. Although this letter is not such an order or a request for information under Section 3007 of RCRA, 42 U.S.C. § 6927, we request that you submit a response in writing to us no later than 30 days after receipt of this letter documenting the actions, if any, which you have taken since the inspection to establish compliance with the above conditions; waste determination and used oil requirements. You should submit your response to Daniel Chachakis, U.S. EPA, Region 5, 77 West Jackson Boulevard, LR-8J, Chicago, Illinois 60604.” “

If you have any questions regarding this letter, please contact Daniel Chachakis, of my staff, at (312) 886-9871 or at chachakis.daniel@epa.gov.

Sincerely,

A handwritten signature in dark ink, appearing to read "G. Victorine", with a stylized flourish extending from the end.

Gary J. Victorine, Chief
RCRA Branch

Enclosure

cc: Michael Mullins, Illinois EPA (michael.mullins@illinois.gov)
Todd Marvel, Illinois EPA, (todd.marvel@illinois.gov)

